

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of C.U., a person under)	(Not For Official Publication)
eighteen years of age.)	
_____)	Case No. 20070626-CA
)	
S.A.U.,)	F I L E D
)	(August 28, 2008)
Appellant,)	2008 UT App 322
)	
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Third District Juvenile, Salt Lake Department, 506497
The Honorable Sharon P. McCully

Attorneys: Nathan N. Jardine, Salt Lake City, for Appellant
Mark L. Shurtleff and John M. Peterson, Salt Lake
City, for Appellee
Martha Pierce and Evan Nebeker, Salt Lake City,
Guardians Ad Litem

Before Judges Greenwood, Billings, and McHugh.

PER CURIAM:

S.A.U. (Mother) appeals the termination of her parental rights in C.U. This is before the court on remand from the Utah Supreme Court. The supreme court's order directed this court to exercise its discretion in reviewing Mother's motion to reinstate this appeal, earlier dismissed on procedural grounds. Based on the stipulation of the parties seeking reinstatement of the appeal, and under these narrow circumstances, we reinstate the appeal and address Mother's petition on its merits.

Mother asserts that there was insufficient evidence to support termination of her parental rights and that the Division of Child and Family Services (DCFS) failed to provide her with reasonable reunification services. A juvenile court's findings of fact will not be overturned unless they are clearly erroneous. See In re E.R., 2001 UT App 66, ¶ 11, 21 P.3d 680. A finding of

fact is clearly erroneous only when, in light of the evidence supporting the finding, it is against the clear weight of the evidence. See id. Additionally, we accord juvenile courts broad discretion regarding judgments because of their specialized experience and training, as well as their ability to judge credibility firsthand. See id. In reviewing a juvenile court's order, this court "will not disturb the juvenile court's findings and conclusions unless the evidence clearly preponderates against the findings as made or the court has abused its discretion." In re R.A.J., 1999 UT App 329, ¶ 6, 991 P.2d 1118. "When a foundation for the [juvenile] court's decision exists in the evidence, an appellate court may not engage in a reweighing of the evidence." In re B.R., 2007 UT 82, ¶ 12, 171 P.3d 435.

Mother contends that the evidence was insufficient to terminate her parental rights in light of her present parenting ability at the time of the trial. We disagree. The evidence established that Mother had a long history of drug use and had participated in drug distribution. In the months following the removal of her child, Mother continued to use drugs and to sell drugs from her house. She admitted to using heroin, using prescription pills to mask her heroin use, and selling marijuana, heroin, and prescription pills. The drug raid on her house seven months after the removal resulted in criminal charges for selling drugs.

Additionally, during this timeframe Mother was twice kicked out of a treatment program for absences, tardiness, and resistance to treatment. Although Mother blames her failure to complete the treatment on sexual harassment, she did not raise the issue with her case worker until after the first time she was expelled from the program, nor did she request a different counselor. In actuality, Mother was actively using and selling drugs while she was supposed to be working on her service plan with the goal of reunification.

Mother's present parenting ability at trial consisted of her completing an inpatient program just weeks prior to trial and more than one year after the removal of her child. Mother was also participating in drug court. However, recent and last-minute success in treatment does not outweigh Mother's lengthy and egregious drug history. The juvenile court did not err in finding sufficient evidence to terminate Mother's parental rights.

Mother also asserts that DCFS failed to provide reasonable services because the service plan did not specifically address Mother's addiction to prescription pain killers. The juvenile court found the services to be reasonable because the service plan addressed issues of drug addiction, whether illegal drugs or

prescription drugs. The juvenile court also noted that Mother stated to the court that she was working with her doctor to address the prescription drug issue and did not need additional help with the medication. The record supports the juvenile court's findings regarding services. The juvenile court did not err in finding that DCFS provided reasonable services because the services were a "fair and serious attempt" to address the issues resulting in the removal and targeted toward reunifying the family. In re T.M., 2006 UT App 435, ¶ 23, 147 P.3d 529.

Affirmed.

Pamela T. Greenwood,
Presiding Judge

Judith M. Billings, Judge

Carolyn B. McHugh, Judge